

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

Writ Petition No. 4597 of 2005

Mr Rohan N Nashikkar ..petitioner

VS

Directorate of Medical Edn & ors..Respondents

Mr R S Apte for N R Bubna for Petitioner

Mr. V.P.Malvankar AGP for State

CORAM: A.P.SHAH & D.Y.CHANDRACHUD JJ.
Dated 21.7.2005

P.C:

. Heard advocates.

. The petitioner has filed this petition seeking following reliefs:

i) to give benefit of reservation of all specified reserved categories including category of Hilly Area (HA) on horizontal basis;

ii) to give such benefit to all courses of Health Sciences such as BDS, BHMS, BAMS etc as being given to MBBS course;

iii) to give such benefit even in respect of Government quota from all private colleges.

. In Sangram Singh vs State of Maharashtra and ors (Writ Petition No.4032 of 2003 decided on 9/15-10-2003) the Division Bench of this Court held that providing for reservation for hilly area to the maximum extent of 3% is permissible as these are the reservations falling within the ambit of Article 15(4) of the Constitution and such reservations for hilly area category are required to be made available in the 30% State quota and 70% regional quota on the basis of merit, on par with the same procedure as is follows for the SC, ST, OBC etc . The Division Bench, however, held that providing for HA category reservations to the extent of 20% in the newly started three Government Medical Colleges is illegal and hence impermissible. Consequently the Division Bench directed as follows:

"The State Government may fill in 50 seats from HA category in the entire State (n i.e. 3% of the total seats for 1st Year MBBS available to be allotted by the competent authority) and while maintaining the admissions already granted in this category,

respondent no 1 and 2 shall undertake the process of verification of the hilly area resident certificates and the same shall be completed within two weeks from today. The balance seats so as to make the quota of HA category of 50 seats shall be filled in from the 30% State quota subject to a maximum number of 15 seats and they shall be initially admitted in the Government medical college at Latur and Akola. The movement of these students admitted in the HA category to the Government medical college of their choice in the region or State shall be affected as explained by us in para 18 of this judgment.

As and when the respondent no.1 proposes to amend the admission rules in future we expect that such amendments be placed before the Hon'ble Chief Minister alongwith the opinion recorded by the Department of Law and Judiciary as well as the learned Advocate General for his approval. The State may also take steps for providing for HA category reservations in other courses from the Health Sciences from the next year

onwards and the reservations so provided shall be all over the State of Maharashtra and distributed in the State as well as regional level quota on par with the procedure followed for the SC, ST and OBC etc categories."

. In terms of the directions issued by the Division Bench the respondents are providing reservations in the category of hilly area in MBBS courses. The respondents have also provided 70% and 30% bifurcation for the State and regional level in hilly area category allotments. It appears that the State Government has taken a policy decision not to provide such hilly area reservations in other Health Sciences Courses for the Academic Year 2005-06. It has been pointed on behalf of the State Government that special reservations provided by the State have not been made applicable to the private medical colleges and other colleges by the respondents by granting admissions to the students in any Health Science Courses.

. In our opinion it is not possible to grant the prayers made by the petitioner in the present

petition. Government of Maharashtra published relevant rules for regulating the procedure for selection to the course in Health Sciences for Academic Year 2005-06 on 21.3.2005. Copies of booklets i.e. Information Brochure alongwith the Application Form were made available to all the students since 21.3.2005. The Common Entrance Test was held on 12.5.2005. The procedure for allotment of seats has been already completed in the first round and the students have already started joining colleges in which they have been granted admissions. In these circumstances it is not possible to entertain the belated petition for providing hilly area reservation for various other colleges. Even according to the petitioner himself he for the first time raised objection only as late as on 22.6.2005 and thereafter filed this petition on 14.7.2005. By this time almost 80% of admissions are completed and granting of any relief would prejudicially affect thousands of students and will have a cascading effect on the entire allotments . Petition is therefore dismissed.